


1 Here, petitioner claims that the June 21, 2001 decision of the Governor to
2 revoke a parole date granted him on February 27, 2001 by BPT was not based on
3 evidence bearing some indicia of reliability and that it violated the Ex Post Facto
4 Clause. Because petitioner has now been released on parole and does not
5 challenge his conviction, he lacks a cognizable interest in the outcome of this
6 action. See Reimers, 863 F.2d at 632; Fendler, 846 F.2d at 555.

7 Petitioner's contention that this action is not moot because, had he been
8 released earlier on parole, he would be "nearing the completion of parole instead
9 of just starting" does not compel a different result. The mere possibility of earlier
10 termination of parole supervision does not circumvent mootness. See id.
11 (rejecting similar claim by federal prisoner where prisoner may seek review of his
12 eligibility for early termination of parole by applying to the parole commission
13 directly). At minimum, petitioner must exhaust state administrative and judicial
14 remedies in connection with his apparent new claim to have his release "backdated"
15 before seeking federal habeas relief. Accord id. (federal prisoner seeking to have
16 his release backdated must exhaust administrative remedies before seeking federal
17 habeas relief).

18 For the foregoing reasons, respondent's motion to dismiss (doc # 11) is
19 GRANTED. The clerk shall enter judgment in favor of respondent, terminate all
20 pending motions (see, e.g., doc # 12) as moot, and close the file.

21 SO ORDERED.

22 DATED: December 13, 2005



CHARLES R. BREYER
United States District Judge